

1 JULIE A. MERSCH, ESQ.
2 Nevada Bar No. 004695
3 LAW OFFICE OF JULIE A. MERSCH
4 701 S. 7th Street
5 Las Vegas, NV 89101
(702) 387-5868
Fax: (702) 387-0109
jam@merschlaw.com
Attorney for Plaintiff

6
7 UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

8 JESSIE MURRAY,	Civil Action No.: 2:14-cv-00467-JCM-GWF
9 v.	Plaintiff
10 SUN LIFE ASSURANCE COMPANY OF	<u>DISCOVERY PLAN AND SCHEDULING</u>
11 CANADA, <td><u>ORDER</u></td>	<u>ORDER</u>
12 Defendant	<u>SPECIAL SCHEDULING REQUESTED</u>

13 Plaintiff JESSIE MURRAY and Defendant SUN LIFE ASSURANCE COMPANY OF
14 CANADA jointly move this Court for a special scheduling review of the parties' proposed
15 discovery plan in this matter.

16 **I. RULE 26(F) CONFERENCE.**

17 Pursuant to FRCP 26(f), a meeting was held on October 14, 2015, attended by Julie A.
18 Mersch, Esq., counsel for Plaintiff, and Kyle Kirby, Esq., counsel for Defendant. Counsel
19 discussed the claims and legal issues at the meeting and agreed that the standard discovery plan is
20 not best-suited for this lawsuit for the reasons set forth below.

21 **II. NATURE OF CASE AND PURPOSE OF SPECIAL REVIEW.**

22 This dispute involves Plaintiff's claim for benefits under a policy of group short-term and
23 long-term disability insurance issued by Defendant to Plaintiff's employer, MGM Resorts
24 International, for the benefit of its employees. The Plaintiff's amended complaint alleges a claim
25

1 under the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, et seq.
2 (“ERISA”). Discovery may be limited to the administrative record for Plaintiff’s administrative
3 claim and appeal.

4 Accordingly, the parties jointly request that this Court review and adopt the proposed
5 discovery and case schedule set forth below:

6 **III. PROPOSED PLAN.**

7 The parties have conferred and agreed as follows:

8 A. Production and Review of the Administrative Record: Defendant will produce a
9 proposed administrative record for Plaintiff’s review by **November 10, 2015**. On or before
10 **December 8, 2015**, Plaintiff will notify Defendant of her position as to the following issues: (1)
11 whether Plaintiff believes that any additional documents should be added to the administrative
12 record; (2) whether Plaintiff believes that any documents contained in the proposed
13 administrative record should be omitted, and (3) whether Plaintiff will file a motion seeking
14 leave to conduct any discovery beyond the administrative record produced by Defendant.

16 B. Filing of Administrative Record/Motion for Discovery: On or before **December**
17 **22, 2015**, the parties will file a joint administrative record with this Court. In the event the parties
18 cannot reach an agreement on the joint administrative record, Plaintiff will file any motions that
19 she believes are appropriate, including but not limited to moving to conduct discovery beyond the
20 administrative record and/or moving to supplement or omit from the administrative record, by
21 **January 11, 2016**, and Defendant expressly reserves the right to oppose any such motions filed
22 by Plaintiff (pending determination on any motions, the parties will file on **February 5, 2016**
23 those portions of the administrative record on which they do agree).

24 ////
25

1 C. Briefing Schedule for Legal Issues/Merits of the Case:

2 The primary legal issues in this matter are the following: (1) the standard of review to be
3 applied to Defendant's decision to deny Plaintiff's claim for short- and long-term disability
4 benefits; and (2) whether, applying that standard of review, Defendant's decision should be
5 affirmed by the Court.

6 If a joint administrative record is timely filed and Plaintiff does not seek to conduct
7 discovery beyond the administrative record, or to supplement or omit from the administrative
8 record, the parties propose that dispositive motions be filed no later than **February 19, 2016**.
9 Thereafter, the parties will file opposing memoranda by **March 11, 2016**, and reply memoranda
10 by **March 25, 2016**.

11 If Plaintiff does seek and is permitted discovery beyond the administrative record, the
12 above deadlines will be suspended. The parties will work together and with the Court to prepare
13 a new scheduling order, and may seek a status conference to address any outstanding discovery or
14 other issues.

16 ////

17 ////

18 ////

19 ////

20 ////

21 ////

22 ////

23 ////

24 ////

25

1 WHEREFORE, the parties jointly request that this Court adopt the proposed discovery
2 and case schedule set forth herein.

3 Dated this 29th day of October, 2015.

4 LAW OFFICE OF JULIE MERSCH

5
6 By: /s/ Julie A. Mersch
Julie A. Mersch, Esq.
7 Nevada Bar No.: 004695
701 S. 7th Street
8 Las Vegas, NV 89101
9 Attorney for Plaintiff

Dated this 29th day of October, 2015.

PIERCE ATWOOD, LLP

By: /s/ Kyle N. Kirby
Kyle N. Kirby, Esq. (Pro Hac Vice)
254 Commercial St.
Portland, ME 04101

Jill Garcia, Esq.
Nevada Bar No. 007805
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, PC
Wells Fargo Tower, Suite 1500
3800 Howard Hughes Pkwy.
Las Vegas, NV 89169
Attorneys for Defendant

13
14
15 IT IS SO ORDERED,

16 Dated this 3rd day of November, 2015.

17
18 
UNITED STATES MAGISTRATE JUDGE
19
20
21
22
23
24
25